

**IN THE  
SUPREME COURT OF INDIANA**

<b>IN RE THE REQUEST FROM</b>	)	
	)	
<b>ALLEN SUPERIOR COURT, THE</b>	)	
	)	
<b>HONORABLE DAVID AVERY,</b>	)	<b>Case No.</b>
	)	
<b>AND MARION SUPERIOR COURT,</b>	)	
	)	
<b>JUVENILE DIVISION, THE</b>	)	
	)	
<b>HONORABLE JAMES PAYNE</b>	)	

**ORDER AMENDING ADMINISTRATIVE RULE 14**

The Honorable David Avery, Allen Superior Court, has requested approval from this Court to conduct mental commitment hearings via video telecommunications. Administrative Rule 14 allows video telecommunications to be used in mental health emergency detention and review hearings but not during commitments. Honorable James Payne, Marion Superior Court, Juvenile Division, has also requested approval from this Court to conduct placement review hearings via video telecommunications. Administrative Rule 14 allows the use of video telecommunications in delinquency and CHINS detention hearings, but not in placement review hearings. In addition, each request also calls for certain adjustment to the provisions of Admin.R. 14(B)(1) which state that “During any hearing or proceeding conducted under this rule, the court shall assure that (1) The facility and equipment enable counsel to be present

personally with the out of court party and be able to confer privately with such party outside the reach of the camera and audio microphone.”

This Court encourages judges and others in the justice community to experiment with new ways to make justice more accessible and to test new technologies. We commend Judges Avery and Payne for their innovation. At the same time, we must balance the benefits and convenience of technology, such as video telecommunications, with the parties’ rights to due process.

With the foregoing considerations in mind, this Court finds that Administrative Rule 14 should be temporarily amended to enable courts to conduct juvenile review hearings using video telecommunications. This Court further finds that certain witnesses in juvenile and mental health proceedings should not be considered parties for the purpose of having an attorney personally present as is required by Admin.R. 14(B)(1) so that they may testify via telecommunications equipment without necessarily having an attorney personally present with them. Contemporaneously with this Order, this Court is seeking review by and recommendations from the Indiana Judicial Conference Probate Committee regarding the mental health hearing request and from the Indiana Supreme Court Records Management Committee regarding the juvenile hearings request. Upon receiving the committees’ recommendations, this Court will reconsider these amendments in light of the committees’ input.

Accordingly, under this Court’s inherent authority to supervise the administration of all courts of this state, **Rule 14 of the Indiana Administrative Rules** is amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

## **ADMINISTRATIVE RULES**

### **Rule 14. Video Telecommunications in Criminal Juvenile, and Mental Health Proceedings**

**(A) Authority.**

...

**(3) In juvenile proceedings:**

- (a) When a child is alleged to be a delinquent child, a detention hearing pursuant to IC 31-37-6; and a periodic review hearing pursuant to IC 31-37-20-2;
- (b) When a child is alleged to be a child in need of service, a detention hearing pursuant to IC 31-34-5; and a periodic review hearing pursuant to IC 31-34-21-2; and

...

**(B) Facilities and Equipment.** During any hearing or proceeding conducted under this rule, the court shall assure that:

- (1)** The facility and equipment enable counsel to be present personally with the out of court party and be able to confer privately with such party outside the reach of the camera and audio microphone. However, mental health care providers who appear as witnesses in mental health proceedings, employees of the Indiana Family and Social Services Administration and its county offices of Family and Children, and county probation officers, whether or not parties, are not subject to the requirement that their counsel, if any, be present personally with them.

This amendment shall take effect immediately and shall expire on December 31, 2004.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Tax Court; the Indiana State Public Defender; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission on Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the Executive Director of the Indiana State Bar Association; the Executive Director of the Indiana Prosecuting Attorney's Council; the libraries of all law schools in this state; the Michie Company; and, the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this \_\_\_\_\_ day of February, 2004

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Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.